

HOUSE BILL 603

P1, M3, C5

11r0683

By: **Delegates Summers, Clippinger, Conaway, Cullison, Luedtke, Niemann, B. Robinson, F. Turner, V. Turner, and Washington**

Introduced and read first time: February 9, 2011

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Energy Administration – Clean Energy Loan Payment Program**

3 FOR the purpose of establishing a Clean Energy Loan Payment Program in the
4 Maryland Energy Administration; stating the purpose of the Program;
5 providing for the duties of the Administration related to the Program; requiring
6 the Program to require a property owner to repay certain loans through a
7 surcharge on the owner's property tax bill; prohibiting the amount of the loan
8 from exceeding a certain percentage of the assessed value of a certain property;
9 requiring that the surcharge be limited to a certain amount; providing that a
10 person who acquires property subject to a certain surcharge assumes the
11 obligation to pay the surcharge; requiring the Administration to adopt certain
12 regulations; prohibiting loans under the Program unless certain conditions are
13 met; authorizing a certain secured party to collect and hold in escrow certain
14 payments due on certain loans in a certain manner; providing that a certain
15 surcharge, including interest and penalties, constitutes a lien against a certain
16 property; providing that a certain lien is effective against a certain person;
17 providing that a certain lien is not effective against any third party unless
18 certain notice of the lien is recorded and indexed in a certain manner; providing
19 that a certain lien does not have priority over prior secured interests; requiring
20 the notice of a certain lien to contain certain information; requiring a certain
21 clerk of a certain court to take certain action on the presentation of a release of
22 a certain lien; limiting the liability of certain loan assessment in certain
23 property foreclosures; prohibiting the outstanding balance of a loan from being
24 accelerated or made due in full; establishing a Clean Energy Loan Payment
25 Fund as a special, nonlapsing fund; requiring the Administration to administer
26 the Fund; requiring the State Treasurer to hold the Fund separately and the
27 Comptroller to account for the Fund; providing for the sources of funding for the
28 Fund; providing for the uses of the Fund; requiring the State Treasurer to
29 invest the Fund in a certain manner; providing that the Mayor and City Council
30 of Baltimore or the governing body of a county is not required to pass any law to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 incorporate a certain surcharge into the property tax bill or to collect a certain
2 surcharge; defining certain terms; and generally relating to the Clean Energy
3 Loan Payment Program.

4 BY adding to
5 Article – State Government
6 Section 9–20C–01 through 9–20C–10 to be under the new subtitle “Subtitle 20C.
7 Clean Energy Loan Payment Program”
8 Annotated Code of Maryland
9 (2009 Replacement Volume and 2010 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article – Tax – Property
12 Section 6–201
13 Annotated Code of Maryland
14 (2007 Replacement Volume and 2010 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – State Government**

18 **SUBTITLE 20C. CLEAN ENERGY LOAN PAYMENT PROGRAM.**

19 **9–20C–01.**

20 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (B) “ADMINISTRATION” MEANS THE MARYLAND ENERGY
23 ADMINISTRATION.

24 (C) “CLEAN ENERGY SURCHARGE” MEANS THE STATE CLEAN ENERGY
25 PROPERTY TAX SURCHARGE AUTHORIZED UNDER § 9–20C–05 OF THIS
26 SUBTITLE.

27 (D) “FUND” MEANS THE CLEAN ENERGY LOAN PAYMENT FUND
28 ESTABLISHED UNDER THIS SUBTITLE.

29 (E) “PROGRAM” MEANS THE CLEAN ENERGY LOAN PAYMENT
30 PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

31 (F) “PROJECT” MEANS A PROJECT FOR THE PURPOSES PROVIDED IN §
32 9–20C–03 OF THIS SUBTITLE.

33 **9–20C–02.**

1 **THERE IS A CLEAN ENERGY LOAN PAYMENT PROGRAM IN THE**
2 **ADMINISTRATION.**

3 **9-20C-03.**

4 **THE PURPOSE OF THE PROGRAM IS TO PROVIDE LOW-INTEREST LOANS**
5 **TO:**

6 **(1) RESIDENTIAL PROPERTY OWNERS, INCLUDING LOW-INCOME**
7 **RESIDENTIAL PROPERTY OWNERS, FOR THE FINANCING OF ENERGY EFFICIENCY**
8 **AND RENEWABLE ENERGY PROJECTS; AND**

9 **(2) COMMERCIAL PROPERTY OWNERS FOR THE FINANCING OF:**

10 **(I) ENERGY EFFICIENCY PROJECTS; AND**

11 **(II) RENEWABLE ENERGY PROJECTS WITH AN ELECTRIC**
12 **GENERATING CAPACITY NOT EXCEEDING 100 KILOWATTS OR THE EQUIVALENT**
13 **THERMAL ENERGY OUTPUT MEASURED IN BTUS.**

14 **9-20C-04.**

15 **THE ADMINISTRATION SHALL:**

16 **(1) MANAGE, SUPERVISE, AND ADMINISTER THE PROGRAM;**

17 **(2) ADOPT REGULATIONS TO ENSURE THAT LOANS ARE PROVIDED**
18 **ONLY TO PROJECTS THAT CARRY OUT THE PURPOSES OF THE PROGRAM; AND**

19 **(3) ATTACH TO ANY LOANS SPECIFIC TERMS THAT THE**
20 **ADMINISTRATION CONSIDERS NECESSARY TO ENSURE THAT THE PURPOSES OF**
21 **THE PROGRAM ARE FULFILLED.**

22 **9-20C-05.**

23 **(A) (1) THE PROGRAM SHALL REQUIRE A PROPERTY OWNER TO**
24 **REPAY LOANS PROVIDED BY THE STATE UNDER THE PROGRAM THROUGH A**
25 **CLEAN ENERGY SURCHARGE ON THE OWNER'S PROPERTY TAX BILL.**

26 **(2) THE AMOUNT OF A LOAN PROVIDED UNDER THE PROGRAM**
27 **MAY NOT EXCEED 10% OF THE ASSESSED VALUE OF THE PROPERTY ACCORDING**
28 **TO CURRENT COUNTY PROPERTY TAX RECORDS.**

1 **(3) THE CLEAN ENERGY SURCHARGE UNDER PARAGRAPH (1) OF**
2 **THIS SUBSECTION SHALL BE LIMITED TO AN AMOUNT THAT ALLOWS THE STATE**
3 **TO RECOVER:**

4 **(I) THE PRINCIPAL OF THE LOAN;**

5 **(II) ANY OUTSTANDING INTEREST ON THE LOAN; AND**

6 **(III) THE COSTS ASSOCIATED WITH ADMINISTERING THE**
7 **PROGRAM.**

8 **(B) A PERSON WHO ACQUIRES PROPERTY SUBJECT TO A CLEAN ENERGY**
9 **SURCHARGE UNDER THIS SECTION, WHETHER BY PURCHASE OR OTHER MEANS,**
10 **ASSUMES THE OBLIGATION TO PAY THE SURCHARGE.**

11 **9-20C-06.**

12 **(A) REGULATIONS ADOPTED UNDER § 9-20C-04 OF THIS SUBTITLE**
13 **SHALL PROVIDE FOR:**

14 **(1) ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN THE**
15 **PROGRAM, INCLUDING ELIGIBILITY REQUIREMENTS FOR:**

16 **(I) ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE**
17 **ENERGY DEVICES; AND**

18 **(II) PROPERTY AND PROPERTY OWNERS; AND**

19 **(2) LOAN TERMS AND CONDITIONS.**

20 **(B) ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN THE**
21 **PROGRAM UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE**
22 **REQUIREMENTS THAT:**

23 **(1) THE ADMINISTRATION, IN A MANNER SUBSTANTIALLY**
24 **SIMILAR TO THAT REQUIRED FOR A MORTGAGE LOAN UNDER §§ 12-127, 12-311,**
25 **12-409.1, 12-925, AND 12-1029 OF THE COMMERCIAL LAW ARTICLE, GIVE DUE**
26 **REGARD TO THE PROPERTY OWNER'S ABILITY TO REPAY LOANS PROVIDED**
27 **UNDER THE PROGRAM; AND**

28 **(2) IF A PROPERTY IS SUBJECT TO ANY RECORDED MORTGAGE OR**
29 **DEED OF TRUST AT THE TIME THE PROPERTY OWNER APPLIES FOR**
30 **PARTICIPATION IN THE PROGRAM, AT THE TIME OF THE APPLICATION FOR A**
31 **LOAN UNDER THE PROGRAM, THE ADMINISTRATION SEND NOTICE TO EACH**

1 SECURED PARTY UNDER A RECORDED MORTGAGE OR DEED OF TRUST BY
2 FIRST-CLASS CERTIFIED MAIL.

3 **9-20C-07.**

4 A LOAN MAY NOT BE GIVEN UNDER THE PROGRAM UNLESS:

5 (1) PROPERTY TAXES ARE CURRENT;

6 (2) NO OUTSTANDING AND UNSATISFIED TAX LIENS ARE ON THE
7 PROPERTY;

8 (3) THERE ARE NO NOTICES OF DEFAULT OR OTHER EVIDENCE OF
9 PROPERTY-BASED DEBT DELINQUENCY FOR THE LESSER OF:

10 (I) THE 3 YEARS IMMEDIATELY PRECEDING THE
11 APPLICATION FOR A LOAN; OR

12 (II) THE LENGTH OF TIME THE PROPERTY OWNER HAS
13 OWNED THE PROPERTY; AND

14 (4) THE PROPERTY IS CURRENT ON ALL MORTGAGE DEBT.

15 **9-20C-08.**

16 A SECURED PARTY UNDER A MORTGAGE OR DEED OF TRUST ON THE
17 PROPERTY MAY COLLECT AND HOLD IN AN ESCROW ACCOUNT PAYMENTS DUE
18 ON LOANS MADE UNDER THE PROGRAM IN THE SAME MANNER AS THE SECURED
19 PARTY MAY COLLECT AND HOLD IN AN ESCROW ACCOUNT PAYMENTS FOR
20 PROPERTY TAXES OR INSURANCE FOR THE PROPERTY.

21 **9-20C-09.**

22 (A) (1) A CLEAN ENERGY SURCHARGE, INCLUDING ANY INTEREST
23 AND PENALTY, CONSTITUTES A LIEN AGAINST THE PROPERTY SUBJECT TO THE
24 SURCHARGE.

25 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III)
26 OF THIS PARAGRAPH, ANY LIEN CREATED IN FAVOR OF THE ADMINISTRATION
27 UNDER THIS SUBTITLE IS EFFECTIVE AGAINST THE PERSON AGAINST WHOSE
28 PROPERTY THE LIEN EXISTS.

29 (II) A LIEN IS NOT EFFECTIVE AGAINST ANY THIRD PARTY
30 UNLESS WRITTEN NOTICE OF THE LIEN IS RECORDED AND INDEXED IN A

1 PERMANENT RECORD MAINTAINED IN THE OFFICE OF THE CLERK OF THE
2 CIRCUIT COURT IN EACH COUNTY IN WHICH THE PROPERTY SUBJECT TO THE
3 LIEN OR ANY PART OF THE PROPERTY IS LOCATED.

4 (III) A LIEN DOES NOT HAVE PRIORITY OVER A PRIOR
5 SECURED INTEREST.

6 (3) THE NOTICE REQUIRED IN PARAGRAPH (2)(II) OF THIS
7 SUBSECTION SHALL CONTAIN:

8 (I) THE NAME AND ADDRESS OF THE PERSON AGAINST
9 WHOSE PROPERTY THE LIEN EXISTS;

10 (II) THE NAME AND ADDRESS OF THE ADMINISTRATION;

11 (III) THE AMOUNT OF THE LIEN;

12 (IV) A DESCRIPTION OR REFERENCE TO THE PROPERTY
13 SUBJECT TO THE LIEN; AND

14 (V) THE DATE THE LIEN WAS CREATED.

15 (4) ON PRESENTATION OF A RELEASE OF ANY LIEN CREATED IN
16 FAVOR OF THE ADMINISTRATION UNDER THIS SUBTITLE, THE CLERK OF THE
17 CIRCUIT COURT IN WHICH THE LIEN IS RECORDED AND INDEXED SHALL:

18 (I) RECORD AND INDEX THE RELEASE; AND

19 (II) NOTE IN THE LIEN DOCKET THE DATE THE RELEASE IS
20 FILED AND THE FACT THAT THE LIEN IS RELEASED.

21 (5) (I) THE LIABILITY FOR THE LOAN ASSESSMENT IN
22 PROPERTY FORECLOSURES IS LIMITED TO ANY AMOUNT IN ARREARS AT THAT
23 TIME.

24 (II) THE OUTSTANDING BALANCE OF A LOAN MAY NOT BE
25 ACCELERATED OR MADE DUE IN FULL.

26 9-20C-10.

27 (A) THERE IS A CLEAN ENERGY LOAN PAYMENT FUND.

28 (B) THE ADMINISTRATION SHALL ADMINISTER THE FUND.

1 **(2)** The Mayor and City Council of Baltimore City or the governing
2 body of a county is not required to pass any law to:

3 **(I)** incorporate the State property tax **OR STATE CLEAN**
4 **ENERGY SURCHARGE** in the property tax bill; or

5 **(II)** [to] collect the State property tax **OR STATE CLEAN**
6 **ENERGY SURCHARGE.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2011.